

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

After his release from prison, Plaintiff Donnie Baker filed this civil rights action pursuant to 42 U.S.C. § 1983 for constitutional deprivations that occurred in connection with his allegedly excessive incarceration. (Doc. 1). The Complaint did not survive screening. (Doc. 9). On July 1, 2019, the Court dismissed the Complaint pursuant to 28 U.S.C. § 1915(e)(2) and denied the Motion for Leave to Proceed *in forma pauperis* (“IFP”). (*Id.*).

Plaintiff was granted leave to file a First Amended Complaint on or before August 1, 2019. (Doc. 9, p. 4). He was warned that the action would be dismissed with prejudice, if he failed to file an amended complaint by the deadline. (*Id.*). He was also advised that his obligation to pay the \$400.00 filing fee remained due and payable, regardless of whether Plaintiff elected to file a First Amended Complaint. (*Id.* at p. 5). Plaintiff was invited to renew his request for IFP on or before August 1, 2019. (*Id.*). He was repeatedly reminded of his continuing obligation to inform the Clerk

of Court and each opposing party of any address changes and warned that failure to do so could result in dismissal of the action. (Docs. 2, 6, 9).

Plaintiff's deadline for filing the First Amended Complaint and renewing his request for IFP has expired. Plaintiff has not requested an extension. The Order Dismissing Complaint (Doc. 9) was returned undeliverable on July 12, 2019. (Doc. 10). Plaintiff has not updated his address since that time or otherwise communicated with the Court. The Court will not allow this matter to linger indefinitely.

Accordingly, this action shall be dismissed with prejudice for failure to comply with the Court's Orders (Docs. 2, 6, 9) to update his address and the Order (Doc. 9) to file a First Amended Complaint and renew his request for IFP. *See* FED. R. CIV. P. 41(b).

Disposition

IT IS HEREBY ORDERED that this action is **DISMISSED** with prejudice based on Plaintiff's failure to comply with the Court's Order to file a First Amended Complaint (Doc. 9), renew his request for IFP (Doc. 9), and update his address. (Docs. 2, 6, 9). He has failed to comply with these court orders and to prosecute his claims. *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994).

Plaintiff is further **ADVISED** that his obligation to pay the filing fee for this action was incurred at the time the action was filed. Therefore, the filing fee of \$400.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

If Plaintiff wishes to appeal this Order, he may file a notice of appeal with this Court within thirty days of the entry of judgment. FED. R. APP. 4(a)(1)(A). If Plaintiff does choose to appeal, he will be liable for the \$505.00 appellate filing fee irrespective of the outcome of the appeal. *See* FED. R. APP. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir.

2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien*, 133 F.3d at 467. He must list each of the issues he intends to appeal in the notice of appeal. Moreover, if the appeal is found to be nonmeritorious, Plaintiff may also incur another “strike.” A proper and timely motion filed pursuant to Federal Rule of Civil Procedure 59(e) may toll the 30-day appeal deadline. FED. R. APP. P. 4(a)(4). A Rule 59(e) motion must be filed no more than twenty-eight (28) days after the entry of judgment, and this 28-day deadline cannot be extended.

The Clerk’s Office is **DIRECTED** to close this case and enter judgment accordingly.

IT IS SO ORDERED.

DATED: August 5, 2019



NANCY J. ROSENSTENGEL
Chief U.S. District Judge